

**BEFORE THE  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

**In the Matter of the Accusation )  
Against: )**

**David Warren Newell, M.D. )**

**Case No. 800-2018-040677**

**Physician's and Surgeon's )  
Certificate No. G 84265 )**

**Respondent )**


**DECISION**

**The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.**

**This Decision shall become effective at 5:00 p.m. on July 17, 2019.**

**IT IS SO ORDERED June 17, 2019.**

**MEDICAL BOARD OF CALIFORNIA**

By:   
**Kristina D. Lawson, J.D., Chair  
Panel B**

1 XAVIER BECERRA  
Attorney General of California  
2 JANE ZACK SIMON  
Supervising Deputy Attorney General  
3 EMILY L. BRINKMAN  
Deputy Attorney General  
4 State Bar No. 219400  
455 Golden Gate Avenue, Suite 11000  
5 San Francisco, CA 94102-7004  
Telephone: (415) 510-3374  
6 Facsimile: (415) 703-5843  
E-mail: Emily.Brinkman@doj.ca.gov  
7 *Attorneys for Complainant*

8  
9 **BEFORE THE**  
**MEDICAL BOARD OF CALIFORNIA**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12  
13 In the Matter of the Accusation Against:

Case No. 800-2018-040677

14 **DAVID WARREN NEWELL, M.D.**  
15 550 17th Ave Ste. 240  
Seattle WA 98122-5877

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

16 **Physician's and Surgeon's Certificate No. G**  
17 **84265**

18 Respondent.  
19

20 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-  
21 entitled proceedings that the following matters are true:

22 **PARTIES**

23 1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board  
24 of California (Board). She brought this action solely in her official capacity and is represented in  
25 this matter by Xavier Becerra, Attorney General of the State of California, by Emily L. Brinkman,  
26 Deputy Attorney General.  
27  
28

2. Respondent David Warren Newell, M.D. (Respondent) enters into this Stipulated Settlement in consultation with his Washington legal counsel, John Wolfe, Orrick, 701 5<sup>th</sup> Ave., Suite 5600, Seattle, WA 98104-7097.

3. On or about November 21, 1997, the Board issued Physician's and Surgeon's Certificate No. G 84265 to David Warren Newell, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2018-040677, and will expire on June 30, 2019, unless renewed.

#### JURISDICTION

4. Accusation No. 800-2018-040677 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on November 27, 2018. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 800-2018-040677 is attached as exhibit A and incorporated herein by reference.

#### ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2018-040677. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

\\

1 CULPABILITY

2 9. Respondent admits the truth of each and every charge and allegation in Accusation  
3 No. 800-2018-040677.

4 10. Respondent agrees that his Physician's and Surgeon's Certificate is subject to  
5 discipline and he agrees to be bound by the Board's imposition of discipline as set forth in the  
6 Disciplinary Order below.

7 CONTINGENCY

8 11. This stipulation shall be subject to approval by the Medical Board of California.  
9 Respondent understands and agrees that counsel for Complainant and the staff of the Medical  
10 Board of California may communicate directly with the Board regarding this stipulation and  
11 settlement, without notice to or participation by Respondent or his counsel. By signing the  
12 stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek  
13 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails  
14 to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary  
15 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal  
16 action between the parties, and the Board shall not be disqualified from further action by having  
17 considered this matter.

18 12. The parties understand and agree that Portable Document Format (PDF) and facsimile  
19 copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile  
20 signatures thereto, shall have the same force and effect as the originals.

21 13. In consideration of the foregoing admissions and stipulations, the parties agree that  
22 the Board may, without further notice or formal proceeding, issue and enter the following  
23 Disciplinary Order:

24 DISCIPLINARY ORDER

25 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. G 84265 issued  
26 to Respondent David Warren Newell, M.D. is publicly reprimanded pursuant to California  
27 Business and Professions Code section 2227, subdivision (a)(4). This public reprimand is issued  
28 in connection with the discipline imposed by the Washington Medical Quality Assurance

Commission, as set forth in Accusation No. 800-2018-040677.

PROFESSIONALISM PROGRAM (ETHICS COURSE). Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a professionalism program, that meets the requirements of Title 16, California Code of Regulations (CCR) section 1358.1. Respondent shall participate in and successfully complete that program. Respondent shall provide any information and documents that the program may deem pertinent. Respondent shall successfully complete the classroom component of the program not later than six (6) months after Respondent's initial enrollment, and the longitudinal component of the program not later than the time specified by the program, but no later than one (1) year after attending the classroom component. The professionalism program shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

A professionalism program taken after the acts that gave rise to the charges in the Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board or its designee, be accepted towards the fulfillment of this condition if the program would have been approved by the Board or its designee had the program been taken after the effective date of this Decision.

Respondent shall submit a certification of successful completion to the Board or its designee not later than 15 calendar days after successfully completing the program or not later than 15 calendar days after the effective date of the Decision, whichever is later.

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ACCEPTANCE

1 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully  
2 discussed it with my Washington attorney, John Wolfe. I understand the stipulation and the effect  
3 it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement  
4 and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the  
5 Decision and Order of the Medical Board of California.

6  
7 DATED: 5/2/19

  
8 DAVID WARREN NEWELL, M.D.  
Respondent

9 I have read and fully discussed with Respondent David Warren Newell, M.D. the terms and  
10 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.  
11 I approve its form and content.

12  
13 DATED: 5/14/19

  
14 John Wolfe  
Attorney for Respondent

15  
16 ENDORSEMENT

17 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully  
18 submitted for consideration by the Medical Board of California.

19  
20 Dated: May 16, 2019

Respectfully submitted,

21 XAVIER BECERRA  
Attorney General of California  
22 JANE ZACK SIMON  
Supervising Deputy Attorney General

  
23 EMILY L. BRINKMAN  
24 Deputy Attorney General  
25 Attorneys for Complainant

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**Exhibit A**

**Accusation No. 800-2018-040677**

1 XAVIER BECERRA  
Attorney General of California  
2 JANE ZACK SIMON  
Supervising Deputy Attorney General  
3 EMILY L. BRINKMAN  
Deputy Attorney General  
4 State Bar No. 219400  
455 Golden Gate Avenue, Suite 11000  
5 San Francisco, CA 94102-7004  
Telephone: (415) 510-3374  
6 Facsimile: (415) 703-5843  
E-mail: Emily.Brinkman@doj.ca.gov  
7 *Attorneys for Complainant*

FILED  
STATE OF CALIFORNIA  
MEDICAL BOARD OF CALIFORNIA  
SACRAMENTO NOV. 27 20 18  
BY ~~SUZANNE SIMON~~ ANALYST

8  
9 **BEFORE THE**  
10 **MEDICAL BOARD OF CALIFORNIA**  
11 **DEPARTMENT OF CONSUMER AFFAIRS**  
12 **STATE OF CALIFORNIA**

13 In the Matter of the Accusation Against:

Case No. 800-2018-040677

14 **David Warren Newell, M.D.**  
15 550 17th Ave Ste. 240  
Seattle WA 98122-5877

**ACCUSATION**

16 **Physician's and Surgeon's Certificate**  
17 **No. G 84265,**

18 Respondent.

19  
20 Complainant alleges:

21 **PARTIES**

22 1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official  
23 capacity as the Executive Director of the Medical Board of California, Department of Consumer  
24 Affairs (Board).

25 2. On or about November 21, 1997, the Medical Board issued Physician's and Surgeon's  
26 Certificate Number G 84265 to David Warren Newell, M.D. (Respondent). The Physician's and  
27 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought  
28 herein and will expire on June 30, 2019, unless renewed.



**JURISDICTION**

3. This Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2227 of the Code provides that a licensee who is found guilty under the Medical Practice Act may have his or her license revoked, suspended for a period not to exceed one year, placed on probation and required to pay the costs of probation monitoring, or such other action taken in relation to discipline as the Board deems proper.

5. Section 2234 of the Code, states in relevant part:

"The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

"... "

"(f) Any action or conduct which would have warranted the denial of a certificate."

"... "

6. Section 2236 of the Code states in relevant part:

"(a) The conviction of any offense substantially related to the qualifications, functions, or duties of a physician and surgeon constitutes unprofessional conduct within the meaning of this chapter [Chapter 5, the Medical Practice Act]. The record of conviction shall be conclusive evidence only of the fact that the conviction occurred.

"... "

"(d) A plea or verdict of guilty or a conviction after a plea of nolo contendere is deemed to be a conviction within the meaning of this section and Section 2236.1. The record of conviction shall be conclusive evidence of the fact that the conviction occurred."

7. Section 141 of the Code states:

"(a) For any licensee holding a license issued by a board under the jurisdiction of the department, a disciplinary action taken by another state, by any agency of the federal government, or by another country for any act substantially related to the practice regulated by the California license, may be a ground for disciplinary action by the respective state licensing board. A

1 certified copy of the record of the disciplinary action taken against the licensee by another state,  
2 an agency of the federal government, or another country shall be conclusive evidence of the  
3 events related therein.

4 “(b) Nothing in this section shall preclude a board from applying a specific statutory  
5 provision in the licensing act administered by that board that provides for discipline based upon a  
6 disciplinary action taken against the licensee by another state, an agency of the federal  
7 government, or another country.”

8 8. Section 2305 of the Code states:

9 “The revocation, suspension, or other discipline, restriction or limitation imposed by  
10 another state upon a license or certificate to practice medicine issued by that state, or the  
11 revocation, suspension, or restriction of the authority to practice medicine by any agency of the  
12 federal government, that would have been grounds for discipline in California of a licensee under  
13 this chapter [Chapter 5, the Medical Practice Act] shall constitute grounds for disciplinary action  
14 for unprofessional conduct against the licensee in this state.”

15 **FIRST CAUSE FOR DISCIPLINE**

16 **(Criminal Conviction)**

17 9. Respondent is subject to disciplinary action under sections 2234 [unprofessional  
18 conduct], and/or 2234(f) [act which would have warranted a denial of a license], and/or 2236  
19 [conviction of a crime]. The circumstances are as follows:

20 10. On or about July 11, 2016, the Seattle Police Department arrested Respondent for  
21 patronizing a prostitute. The Seattle Police Department’s High Risk Victims Unit/Vice Unit  
22 conducted an undercover operation at a massage business with an officer posing as a “sexually  
23 exploited worker.”

24 11. A white male, later identified as Respondent, entered the massage business and when  
25 in the massage room requested fellatio for thirty minutes. The undercover officer told  
26 Respondent it would be \$60.00. Respondent then asked the undercover officer if he could have  
27 sex as well and the undercover officer told him it would be \$140.00 for sex and fellatio.  
28 Respondent asked the undercover officer if she was a cop and she said “no.” Respondent then

1 asked her to "pinky swear" and she did. Respondent then said he wanted fellatio and sex and paid  
2 the undercover officer \$140.00. The officer subsequently arrested Respondent for sexual  
3 exploitation in violation of the Seattle Municipal Code section 12A.10.040.

4 12. On or about December 2, 2016, the Seattle City Attorney's Office charged  
5 Respondent with a violation of Seattle Municipal Code section 12A.10.040, sexual exploitation in  
6 *City of Seattle v. David Warren Newell*, Case No. 617473, Incident No. 16-247909.

7 13. On or about February 27, 2017, Respondent pled guilty to a misdemeanor violation of  
8 sexual exploitation/patronizing a prostitute in violation of Seattle Municipal Code section  
9 12A.10.040. The Court sentenced Respondent to twelve months deferred sentence and ordered  
10 him to pay various fines and fees, complete testing for sexually transmitted diseases, complete a  
11 sexually transmitted disease class, and perform 80 hours of community service within four  
12 months.

#### 13 **SECOND CAUSE FOR DISCIPLINE**

##### 14 **(Discipline, Restriction, or Limitation Imposed by Another State)**

15 14. On January 18, 2018, the State of Washington Medical Quality Assurance  
16 Commission (Washington Commission) and Respondent entered into a Stipulated Findings of  
17 Fact, Conclusions of Law, and Agreed Order (Order). The Order was based on the arrest and  
18 conviction as described in the First Cause for Discipline, above. As part of the Order, the  
19 Washington Commission reprimanded Respondent, required him to comply with the terms of his  
20 criminal probation, complete an ethics course, complete community service, write a one-  
21 thousand-word essay on the topic of "buying sex and the individual and societal ethics of  
22 prostitution," appear before the Washington Commission, pay a fine, and comply with general  
23 terms of probation. A copy of the Washington Commission Order is attached as Exhibit A.

24 15. Respondent's conduct and the action of the Washington Commission as set forth  
25 above in paragraph 14, above, and within the actual Washington Commission documents attached  
26 as Exhibit A, constitute unprofessional conduct within the meaning of section 2305 and conduct  
27 subject to discipline within the meaning of section 141.

28 ///

1 PRAYER

2 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
3 and that following the hearing, the Medical Board of California issue a decision:

- 4 1. Revoking or suspending Physician's and Surgeon's Certificate Number G 84265,  
5 issued to David Warren Newell, M.D.;
- 6 2. Revoking, suspending or denying approval of David Warren Newell, M.D.'s authority  
7 to supervise physician assistants and advanced practice nurses;
- 8 3. Ordering David Warren Newell, M.D., if placed on probation, to pay the Board the  
9 costs of probation monitoring; and
- 10 4. Taking such other and further action as deemed necessary and proper.

11  
12 DATED:  
13 November 27, 2018

  
14 KIMBERLY KIRCHMEYER  
15 Executive Director  
16 Medical Board of California  
17 Department of Consumer Affairs  
18 State of California  
19 Complainant

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**EXHIBIT A**

State of Washington Medical Quality Assurance Commission Stipulated Findings of Fact,  
Conclusions of Law, and Agreed Order

**STATE OF WASHINGTON  
MEDICAL QUALITY ASSURANCE COMMISSION**

In the Matter of the License to Practice  
as a Physician and Surgeon of:

**DAVID W. NEWELL, MD**  
License No. MD00021288

Respondent.

**No. M2017-67**

**STIPULATED FINDINGS OF FACT,  
CONCLUSIONS OF LAW, AND  
AGREED ORDER**

The Medical Quality Assurance Commission (Commission), through Anna Clavel, Commission Staff Attorney; and Respondent, represented by counsel, Brian Moran, stipulate and agree to the following.

**1. PROCEDURAL STIPULATIONS**

- 1.1 On May 8, 2017, the Commission issued a Statement of Charges against Respondent.
- 1.2 In the Statement of Charges, the Commission alleges that Respondent violated RCW 18.130.180(1).
- 1.3 The Commission is prepared to proceed to a hearing on the allegations in the Statement of Charges.
- 1.4 Respondent has the right to defend against the allegations in the Statement of Charges by presenting evidence at a hearing.
- 1.5 The Commission has the authority to impose sanctions pursuant to RCW 18.130.160 if the allegations are proven at a hearing.
- 1.6 The parties agree to resolve this matter by means of this Stipulated Findings of Fact, Conclusions of Law, and Agreed Order (Agreed Order).
- 1.7 Respondent waives the opportunity for a hearing on the Statement of Charges if the Commission accepts this Agreed Order.
- 1.8 This Agreed Order is not binding unless it is accepted and signed by the Commission.
- 1.9 If the Commission accepts this Agreed Order, it will be reported to the National Practitioner Data Bank (45 CFR Part 60), the Federation of State Medical Boards' Physician Data Center, and elsewhere as required by law.

STIPULATED FINDINGS OF FACT,  
CONCLUSIONS OF LAW, AND AGREED ORDER  
NO. M2017-67

**ORIGINAL**

PAGE 1 OF 8

AO-REV. 2-07

1.10 This Agreed Order is a public document. It will be placed on the Department of Health's website, disseminated via the Commission's electronic mailing list, and disseminated according to the Uniform Disciplinary Act (Chapter 18.130 RCW). It may be disclosed to the public upon request pursuant to the Public Records Act (Chapter 42.56 RCW). It will remain part of Respondent's file according to the state's records retention law and cannot be expunged.

1.11 If the Commission rejects this Agreed Order, Respondent waives any objection to the participation at hearing of any Commission members who heard the Agreed Order presentation.

## **2. FINDINGS OF FACT**

Respondent and the Commission stipulate to the following findings of fact:

2.1 On December 20, 1983, the state of Washington issued Respondent a license to practice as a physician and surgeon. Respondent's license is currently active. Respondent is board certified in neurological surgery.

2.2 On July 11, 2016, Respondent was arrested on allegations involving patronizing a prostitute.

2.3 On February 27, 2017, Respondent entered a plea of guilty to a charge of Sexual Exploitation, a misdemeanor.

## **3. CONCLUSIONS OF LAW**

The Commission and Respondent agree to the entry of the following Conclusions of Law.

3.1 The Commission has jurisdiction over Respondent and over the subject matter of this proceeding.

3.2 Respondent has committed unprofessional conduct in violation of RCW 18.130.180(1).

3.3 The above violation provides grounds for imposing sanctions under RCW 18.130.160.

#### 4. AGREED ORDER

Based on the Findings of Fact and Conclusions of Law, Respondent agrees to entry of the following Agreed Order.

4.1 **Reprimand.** Respondent is **REPRIMANDED** for engaging in the act of sexual exploitation.

4.2 **Term of Oversight.** Respondent's license to practice as a physician and surgeon in the State of Washington is subject to this Agreed Order until Respondent successfully completes the terms and conditions of his criminal deferral process and all of the requirements set forth in this Agreed Order. For the duration of the Agreed Order, Respondent must comply with all of the terms and conditions of the Agreed Order. The Commission reserves the right to extend the oversight term if the Commission deems it necessary to protect the public.

4.3 **Compliance Orientation.** Respondent shall complete a compliance orientation in person or by telephone within **two (2) months** of the effective date of this Agreed Order. Respondent must contact the Compliance Unit at the Commission by calling (360) 236-2763, or by sending an email to: [Medical.compliance@doh.wa.gov](mailto:Medical.compliance@doh.wa.gov) within **twenty (20) days** of the effective date of this Agreed Order. Respondent must provide a contact phone number where Respondent can be reached for scheduling purposes.

4.4 **Compliance with Judgment and Sentence.** Respondent must fully comply with the Judgment and Sentence filed February 27, 2017, In re *The City of Seattle v. David Newell*, Case No. 617473. A deferral hearing has been scheduled for February 23, 2018.

4.5 **Ethics Coursework.** Within **six (6) months** of the effective date of this Agreed Order, Respondent will successfully complete the following course in medical ethics:

Professional Boundaries, Inc.

***Medical Ethics and Professionalism -- Physician Edition***

[https://professionalboundaries.com/ethic\\_course.php](https://professionalboundaries.com/ethic_course.php)

This course is an intensive 22-hour continuing medical education (CME) for physicians, where Respondent will explore his own risk factors, vulnerabilities, accountability, and



resistance to face his violation potential. Prior to beginning the course, Respondent will be required to submit to the course instructor(s) a 1-3 page write-up detailing the ethical violation at issue, including a copy of the Statement of Charges and Agreed Order. As a condition of this Agreed Order, Respondent must also submit a copy of the Seattle Police Report (#2016-247909), Criminal Complaint, and Judgment and Sentence. At the culmination of the course, Respondent will have developed a personal ethics protection plan to better protect himself and others.

This CME shall be in addition to the mandatory continuing education hours required for license approval. Respondent will submit proof of satisfactory course completion to the Commission within sixty (60) days of such completion. In addition, Respondent will submit to the Commission a copy of his 1-3 page pre-course write-up and personal ethics protection plan. If the course instructors inform the Commission that Respondent did not receive an "unconditional pass" or otherwise satisfactorily complete the course, the Commission may require Respondent to re-take the course. Proof of completion of the course must be sent to:

Compliance Officer  
Medical Quality Assurance Commission  
P.O. Box 47866  
Olympia, Washington 98504-7866

4.6 **Community Service.** In cases that involve moral turpitude and ethical lapses of judgment, the Commission requires that the Respondent perform community service to mitigate the public's diminished perception of the medical profession. In this case, Respondent performed over eighty-two (82) hours of volunteer services for the Brain Treatment Center (BTC), an interdisciplinary clinic focused on understanding brain activity and neurological issues to assist patients with autism and post-traumatic stress disorder. Respondent availed of his connections as a renowned neurosurgeon to facilitate contacts between the BTC and leading local physicians who are now aligned to proceed with the important research and work undertaken by the BTC. This volunteer work addresses the nature of the unprofessional conduct as it helps mitigate the public's perception of the medical profession in a positive way, and it is equivalent in time and effort to other community service performed for cases of unprofessional conduct. Respondent has provided the Commission with a letter from BTC attesting to

Respondent's time and commitment, and the Commission agrees it is sufficient to satisfy the community service requirement.

4.7 **Paper.** Within **six (6)** months of the date of this Agreed Order, Respondent shall write an authoritative paper of at least one thousand (1,000) words on the topic of buying sex and the individual and societal ethics of prostitution. The paper will additionally contain a thoughtful analysis of how engaging in illegal or immoral activities, such as buying sex, can harm a medical professional's moral compass, his employment, his standing in the medical profession, and—most importantly—the public's respect for the medical profession. The paper must be approved by the Commission or its designee. Respondent should be prepared to discuss the subject matter of the paper with the Commission at his initial personal appearance. The paper must be submitted to the Commission, in both electronic and printed format, to the respective address below:

1. Medical.compliance@doh.wa.gov
2. Compliance Officer  
Medical Quality Assurance Commission  
P.O. Box 47866  
Olympia, Washington 98504-7866

4.8 **Personal Appearance(s).** Respondent must personally appear at a date and location determined by the Commission approximately **nine (9)** months after the effective date of this Agreed Order, or as soon thereafter as the Commission's schedule permits. Thereafter, Respondent must make personal appearances annually or as frequently as the Commission requires unless the Commission waives the need for an appearance. Respondent must participate in a brief telephone call with the Commission's Compliance Unit prior to the appearance. The purpose of appearances is to provide meaningful oversight over Respondent's compliance with the requirements of this Agreed Order. The Commission will provide reasonable notice of all scheduled appearances.

4.9 **Fine.** Respondent will pay a fine to the Commission in the amount of two thousand dollars (\$2,000). Respondent will pay the fine within **six (6)** months of the effective date of this Agreed Order. The fine will be paid by certified check or money order, made payable to the Department of Health, and mailed to: Medical Quality

Assurance Commission, Department of Health, P.O. Box 1099, Olympia, Washington, 98507-1099.

4.10 **Obey all laws.** Respondent shall obey all federal, state and local laws, and all administrative rules governing the practice of the profession in Washington.

4.11 **Compliance Costs.** Respondent is responsible for all costs of complying with this Agreed Order.

4.12 **Violation of Order.** If Respondent violates any provision of this Agreed Order in any respect, the Commission may initiate further action against Respondent's license.

4.13 **Change of Address.** Respondent shall inform the Commission and the Adjudicative Clerk Office, in writing, of changes in Respondent's residential and/or business address within **thirty (30) days** of the change.

4.14 **Effective Date of Order.** The effective date of this Agreed Order is the date the Adjudicative Clerk Office places the signed Agreed Order into the U.S. mail. If required, Respondent shall not submit any fees or compliance documents until after the effective date of this Agreed Order.

4.15 **Termination.** Respondent may petition the Commission in writing to terminate the terms and conditions of this Agreed Order only after successful completion of all the terms and conditions of this order and the criminal deferral process. When Respondent files such a petition, a date and time will be arranged for Respondent's appearance before the Commission unless the Commission waives the need for Respondent's personal appearance. The Commission has the sole discretion to grant or deny Respondent's petition.

## **5. COMPLIANCE WITH SANCTION RULES**

5.1 The Commission applies WAC 246-16-800, *et seq.*, to determine appropriate sanctions. The sanction schedules stated in those rules do not address the alleged conduct in this case. RCW 18.130.390 and WAC 246-16-800(2)(d) require the Commission to use its judgment to stipulate appropriate sanctions when the sanction schedules do not address the conduct in question. The alleged conduct in this case is analogous to other conduct associated with Tier A severity, and the Agreed Order is

consistent with related sanction ranges (Tier A's range is 0-3 years of oversight). Respondent's conduct reflected poorly on the medical profession as a whole and endangered the public confidence in medical practitioners and institutions. No patients were harmed by Respondent's actions.

5.2 The Commission has therefore used its judgment to determine that the sanctions in this Agreed Order are appropriate to protect the public. The sanctions in this case include a reprimand, ethics course, community service, paper, personal appearance, and a fine. These sanctions are appropriate given the facts of the case and the mitigating factors identified below, and will adequately protect the public.

Mitigating Factors:

- Respondent has practiced as a physician in the state of Washington since 1983 without previous disciplinary action.
- Respondent's behavior did not affect the care provided to any patients.

Aggravating Factors:

- Respondent's unethical conduct lowers the medical profession in the eyes of the public.

## 6. FAILURE TO COMPLY

Protection of the public requires practice under the terms and conditions imposed in this order. Failure to comply with the terms and conditions of this order may result in suspension of the license after a show cause hearing. If Respondent fails to comply with the terms and conditions of this order, the Commission may hold a hearing to require Respondent to show cause why the license should not be suspended. Alternatively, the Commission may bring additional charges of unprofessional conduct under RCW 18.130.180(9). In either case, Respondent will be afforded notice and an opportunity for a hearing on the issue of non-compliance.

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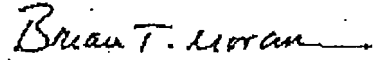
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### 7. RESPONDENT'S ACCEPTANCE

I, David W. Newell, Respondent, have read, understand and agree to this Agreed Order. This Agreed Order may be presented to the Commission without my appearance. I understand that I will receive a signed copy if the Commission accepts this Agreed Order.

  
DAVID W. NEWELL, MD  
RESPONDENT

12/6/2017  
DATE

  
BRIAN MORAN, WSBA NO. 17794  
ATTORNEY FOR RESPONDENT

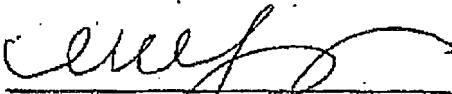
12/6/2017  
DATE

### 8. COMMISSION'S ACCEPTANCE AND ORDER


The Commission accepts and enters this Stipulated Findings of Fact, Conclusions of Law, and Agreed Order.

DATED: 18 of January November 2018.

STATE OF WASHINGTON  
MEDICAL QUALITY ASSURANCE COMMISSION

  
PANEL CHAIR

PRESENTED BY:

  
ANNA G. CLAVEL, WSBA NO. 46229  
COMMISSION STAFF ATTORNEY